Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band	)	PR Docket No. 93-144 RM-8117, RM-8030 RM-8029
	)	
Implementation of Section 3(n) and 322 of the Communications Act Regulatory Treatment of Mobile Services	)	GN Docket No. 93-252
	)	
Implementation of Section 309(j) of the Communications Act - Competitive Bidding 800 MHz SMR	)	PP Docket No. 93-253

To: The Commission

PETITION FOR RECONSIDERATION

Respectfully submitted,

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Date: March 18, 1996

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SUMMARY

The Personal Communications Industry Association ("PCIA") hereby respectfully requests reconsideration of the Federal Communications Commission's ("FCC") First Report and Order, Eighth Report and Order and Second Further Notice of Proposed Rule Making ("First Report and Order") in the above-captioned proceeding.

The successful future of the SMR industry depends on a global solution that addresses all 800 MHz frequencies at once. Although PCIA recognizes the inevitability of the Commission's decision to auction the upper 10 MHz block of SMR spectrum, this decision must be considered in conjunction with the Commission's consideration of licensing on the "lower 80" and General Category channels. As discussed herein, a majority of the SMR industry has agreed on a plan which would permit auctions of upper SMR channels, however, with lower block licensees and relocated incumbents having the ability to negotiate and create geographic licenses on lower channels without auctions. Without adoption of the industry's proposal for lower channels, the auctioning of upper channels is unacceptable. The Commission has not yet accepted the industry's plan. Therefore, it is necessary for PCIA to Petition for Reconsideration of the rules adopted for the upper 10 MHz of spectrum, until such time as the Commission decides to adopt or reject the industry's lower band proposal. Should the Commission adopt the industry's lower band proposal, PCIA may be able at that time to dismiss this Petition for Reconsideration.

In view of the foregoing, PCIA seeks reconsideration of four decisions by the Commission in the First Report and Order: (1) the Commission's decision to license the Upper 200 channels via auction; (2) the Commission's decision to impose mandatory relocation on Upper 200 channel incumbent licensees; (3) the Commission's decision to reallocate the General Category channels for SMR use only; and (4) the Commission's decision to permit EA licensees to place a 40 dBuV/m signal strength contour at the geographic boundaries of the license. Further, PCIA seeks clarification of the Commission's co-channel interference protection requirement for geographic licensees.

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To: The Commission

PETITION FOR RECONSIDERATION

The Personal Communications Industry Association ("PCIA")[1], through its counsel and pursuant to Section 1.106 of the Commission's Rules, 47 C.F.R. §1.106, hereby respectfully requests reconsideration of the Federal Communications Commission's ("FCC") First Report and Order, Eighth Report and Order and Second Further

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[1]PCIA is the only international trade association representing the interests of both commercial mobile radio service ("CMRS") and private mobile radio service ("PMRS") users and businesses involved in all facets of the personal communications industry. PCIA's Federation of Councils include: the Paging and Narrowband PCS Alliance, the Broadband PCS Alliance, the Specialized Mobile Radio Alliance, the Site Owners and Managers Association, the Association of Wireless System Integrators, the Association of Communications Technicians, and the Private System Users Alliance. In addition, PCIA is the FCC-appointed frequency coordinator for the 450-512 MHz bands in the Business Radio Service, the 800 and 900 MHz Business Pools, 800 MHz General Category frequencies for Business eligibles and conventional SMR systems, and for the 929 MHz paging frequencies.

Notice of Proposed Rule Making ("First Report and Order") in the above-captioned proceeding.[2]

I. BACKGROUND

The First Report and Order establishes technical and operational rules for new licensees in the upper 10 MHz block with service areas defined by the U.S. Department of Commerce Bureau of Economic Areas (EAs), and defines the rights of incumbent SMR licensees already operating or authorized to operate on these channels. The Eighth Report and Order establishes competitive bidding rules for the upper 10 MHz block. In the 2nd FNPRM the FCC set forth proposals for new licensing rules and auction procedures for the "lower 80" SMR and General Category channels.

The successful future of the SMR industry depends on a global solution that addresses all 800 MHz frequencies at once. Although PCIA recognizes the inevitability of the Commission's decision to auction the upper 10 MHz block of SMR spectrum, this decision must be considered in conjunction with the Commission's consideration of licensing on the "lower 80" and General Category channels. As discussed herein, a majority of the SMR industry has agreed on a plan which would permit auctions of upper SMR channels, however, with lower block licensees and relocated incumbents having the ability to negotiate and create geographic licenses on lower channels without auctions. Without adoption of the industry's proposal for lower channels, the auctioning of upper channels is

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[2] First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rule Making, FCC 95-501, released December 15, 1995.

unacceptable. The Commission has not yet accepted the industry's plan. Therefore, it is necessary for PCIA to Petition for Reconsideration of the rules adopted for the upper 10 MHz of spectrum, until such time as the Commission decides to adopt or reject the industry's lower band proposal. Should the Commission adopt the industry's lower band proposal, PCIA may be able at that time to dismiss this Petition for Reconsideration.[3]

In view of the foregoing, PCIA seeks reconsideration of four decisions by the Commission in the First Report and Order: (1) the Commission's decision to license the Upper 200 channels via auction; (2) the Commission's decision to impose mandatory relocation on Upper 200 channel incumbent licensees; (3) the Commission's decision to reallocate the General Category channels for SMR use only; and (4) the Commission's decision to permit EA licensees to place a 40 dBuV/m signal strength contour at the geographic boundaries of the license. Further, PCIA seeks clarification of the Commission's co-channel interference protection requirement for geographic licensees.

[3]As noted below, however, the association has legitimate and persuasive legal grounds for challenging the validity of the Commission's authority to auction the 800 MHz spectrum at this time.

II. PETITION FOR RECONSIDERATION

A. Spectrum Auctions and Mandatory Relocation

In the First Report and Order, the Commission decided that mandatory relocation procedures would apply in the Upper 200 Channel Band after a voluntary period.[4] The FCC created a two-phase mandatory relocation mechanism under which there is a fixed one-year period for voluntary negotiations between EA licensees and incumbents and a two-year period for mandatory negotiations.[5] Under this mechanism, if an EA licensee and an incumbent licensee fail to reach an agreement by the conclusion of the mandatory negotiation period, then the EA licensee may request involuntary relocation of the incumbent's systems provided that it: (i) guarantees payment of all costs of relocating the incumbent to comparable facilities: (2) completes all activities necessary for placing the new facilities into operation, including engineering and frequency coordinations, if necessary; and (3) builds and tests the incumbent's new system.[6]

The FCC will require EA licensees to notify incumbents operating on frequencies included in their spectrum block of their intention to relocate such incumbents within 90 days of the release of the Public Notice commencing the voluntary negotiation period.[7]

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[4] Id. at 73.

[5] Id. at 8.

[6] Id. at 48.

[7] Id.

If an incumbent does not receive timely notification of relocation, the EA licensee loses the right to require that incumbent to relocate.[8] The incumbent licensee who has been notified of intended relocation will be able to require that all EA licensees negotiate with such licensee's together.[9]

PCIA's request for reconsideration must be reviewed in conjunction with PCIA's previously filed Ex Parte Comments of September 29, 1995. As PCIA has stated to the Commission in numerous filings and ex parte meetings, PCIA does not believe that the Commission has the authority to auction this spectrum.[10] Further, PCIA has repeatedly stated that mandatory relocation is not necessary, not appropriate, and contrary to Congressional directive.

1. **Congress Did Not Intend For Auctions In The 800 MHz Band**

Through the Budget Act of 1993, Congress intended auctions to be used on a limited basis, and not replace first-come, first-serve filing procedures.[11] Applications in the 800 MHz SMR band, prior to the Commission's recently imposed freeze, were processed

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[8] Id.

[9] Id.

[10] See, for example, ex parte filing of PCIA dated June 6, 1995.

[11] In paragraph 151 of the First Report and Order, the Commission states that parties objections to the use of competitive bidding procedures in the 800 MHz SMR bands are untimely petitions to reconsider the Commission's decision in the Competitive Bidding Second Report and Order. However, a review of that proceeding reveals that there are pending Petitions for Reconsideration of the Second Report and Order relating to auctions. Therefore, a continued discussion of this issue is appropriate, relevant and important.

under a "first-come, first-serve" licensing process.[12] Neither the Budget Reconciliation Act, Legislative History, or House Conference Report mention first-come, first-serve procedures at all.[13] Rather, Chapter 1 under Purpose and Summary of the Legislative History of the Budget Reconciliation Act, titled "Current Licensing Procedures", discusses the failures of lotteries and comparative hearings. This section, which cites the problems of licensing via lottery and comparative hearings and why this portion of the process must be fixed, fails to mention first-come, first-serve licensing procedures or any problems associated with this licensing format.

Section 5203 of Chapter 1 under Competitive Bidding Authority of the Legislative History of the Budget Reconciliation Act states that "[t]his authority [to use auctions] is in addition to the FCC's existing authority to use comparative hearings and lotteries..."[14] Further, the same section states that "[t[he enactment of section 309(j) should not affect the manner in which the Commission issues licenses for virtually all private services...."[15] While many SMR applications are classified as CMRS, the committee here refers to the private "**services**". Part 90 is still titled "Private Land Mobile Radio Services".

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[12]See, 47 C.F.R. §90.611(b).

[13]H.R. Rep. No. 103-111, 103rd Cong. 1st Sess. (1993).

[14]Id. at p. 580.

[15]Id.

Congress fully intended the use of auctions to be limited. The Legislative History states that "... there are limited cases in which competitive bidding would be appropriate and in the public interest. The limited grant of authority contained in this section is designed so that only those classes of licenses would be issued utilizing a system of competitive bidding."[16]

Congress intended that the Commission continue to have the authority to accept first-come, first-serve applications. The Senate amendment specifically exempted from auctions "... non-mutually applications (such as specialized mobile radio, maritime and aeronautical end-users licenses)..."[17] This was later modified in the Conference Agreement to provide that auctions "... will only be used when the Commission accepts for filing mutually exclusive applications for a license."[18] The Commission has repeatedly stated that it has the discretion to decide what constitutes mutually exclusive applications, and the Commission has found that the existing rules in the 800 MHz band which provide for first-come, first-serve processing does not constitute mutual exclusivity.[19]

2. **Auctions Should Be Used For New "Services" Only**

Congress intended auctions to be used for new "services", not new "licenses" in a currently allocated service. The Legislative

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[16] Id.

[17] Id. at p. 1170.

[18] Id.

[19] See, for example, Notice of Proposed Rule Making, PR Docket No. 90-481, 55 FR 46834 (November 11, 1990).

History states that it would disruptive to interrupt the "on-going filing, processing and approval of applications for licenses for existing services...", but suggests that auctions may be appropriate for "... several new services -such as interactive video, the proposed new services in the 220-222 MHz band, and (perhaps) the narrowband paging services proposed in the 900 MHz band..."[20] Congress' failure to mention the 800 MHz service as a possible candidate for auctions is important, and indicates that Congress did not consider an existing service to be subject to auction authority.

3. **Acceptable Alternative Licensing Methods Exist**

Congress required that the Commission first investigate alternative methods to avoid mutually exclusive applications.[21] Prior to the Commission's recent "freeze", the Commission accepted 800 MHz applications on a first-come, first-serve basis. As discussed above, Congress clearly intended that the Commission could continue accepting applications in this manner. However, the Commission has failed to consider continuing to accept applications in the band on a first-come, first-serve basis, and has failed to consider alternative licensing mechanisms which avoid mutually exclusive applications.

The Conference Agreement stated a **requirement** that the Commission "... continue to use engineering solutions, negotiations, threshold qualifications, service regulations, and

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[20]House Report No. 103-111, supra at p. 590.

[21]House Conf. Rep. No. 103-213, supra at p. 1174.

other means in order to avoid mutual exclusivity in application and licensing procedures."[22] The Legislative History also recites this requirement.[23] This Congressional mandate is reflected in Section 309(j)(6)(E) of the Act. Section 309(j)(3) requires the Commission to test alternative methodologies to avoid mutually exclusive applications and thereby avoid auctions. However, the Commission has not proposed, considered or tested any alternative methodologies since the passage of the Budget Act, such as the proposal originally suggested by PCIA. Indeed throughout this proceeding, and until recently, the Commission's proposal, which has only considered auctions, has received little support other than the support of the proposal's primary beneficiary, Nextel Communications, Inc.

The Commission claims in paragraph 150 of the First Report and Order that it has tried other allocation procedures, and cites the original licensing process via lotteries and then by first-come, first-serve procedures. However, the Commission never discusses whether the current procedures can be modified (as suggested by PCIA). Instead, the Commission merely concludes that the system is broken, and therefore must be completely overhauled in favor of an auction system. The Commission dismissed PCIA's originally proposed plan in paragraph 37 of the First Report and Order as too "... small to permit a licensee to establish a viable and competitive wide-area system on a single spectrum block...",

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[22]House Conf. Rep. No. 103-213, supra at p. 1174.

[23]Id. at p. 585.

without a thorough examination and discussion of the actual benefits to licensees and the Commission's processes.

The Commission's auction system is not without its own problems. A review of the still-continuing 900 MHz SMR auction reveals that the process is not as swift as anyone would like, and certainly not as quick as first-come, first-serve procedures can be with minor changes. Further, the 900 MHz SMR auction has clearly demonstrated that the auction is only for the deep-pocketed applicant. If the Commission were allocating virgin spectrum, as is much of the 900 MHz band, this result would not be objectionable per se, however the Commission is auctioning fully occupied 800 MHz SMR spectrum in this proceeding. It will be virtually impossible for any single incumbent licensee to successfully bid at auction for **any** of the upper 200 channels, including the 20 channel block.

PCIA's proposed plan would limit eligibility to existing licensees on the channels requested, thereby limiting mutually exclusive applications. A threshold eligibility test to avoid mutually exclusive applications is specifically contemplated in the Legislative History, and the Commission has previously held that under the standard established in the Ashbacker case, it has the authority to create threshold eligibility tests to the point that the class of eligibles may consist of a single entity.[24]

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[24] See, for example, Notice of Proposed Rule Making, PR Docket No. 90-481, 55 FR 46834 (November 11, 1990).

4. **The Commission Has Created "Second Class" Licensing**

Existing 800 MHz licenses must not be rendered "Second Class" licenses. The Senate and House Amendments in the Legislative History precludes the Commission from granting "... any right to a licensee different from the rights awarded to licensees [within the same service] who obtained their license through assignment methods other than competitive bidding..."[25]

Under the Commission's proposal, the geographic licensee will obtain many more rights than incumbent licensees. For example, under the Commission's proposal, geographic licensees will obtain the rights to the spectrum held by an incumbent should the incumbent not be able to renew its authorization.[26] Yet the incumbent does not obtain the rights to the geographic license if that licensee fails. Similarly, the transfer of an incumbent system to the geographic licensee will be presumed to be in the public interest,[27] while a transfer to a non-MTA licensee is not proposed to be accorded the same benefit. Geographic licensees are proposed to enjoy more flexible emission mask requirements,[28] will have extended periods to construct their systems,[29] and will have

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[25]House Conf. Rep., supra at p. 1174.

[26]Further Notice of Proposed Rule Making, PR Docket No. 93-144, 59 FR 60111 at para. 31.

[27]Id.

[28]Id. at para. 43.

[29]Id. at para. 46.

more flexibility in the location of transmitter sites.[30] Therefore, the incumbent's license is rendered a second class status, contrary to the expressed will of Congress.

In PCIA's view, the Commission's new rules also unfairly modify existing 800 MHz licenses. The statute and Legislative History prohibit the use of auctions for modifications of a license.[31] The "mandatory retuning" rule adopted by the Commission, regardless if the retuning takes place over one year or several years, is clearly a modification of license.

The Commission's new rules would modify the licenses of all existing operators. Specifically, the Commission's proposal can be summarized as a proposal to issue geographic licenses on top of existing licenses, since the geographic licensee would be licensed for the entire geographic area which encompasses the incumbent's license.[32] As a result, existing systems have an extremely limited ability to move or modify their systems. Although it can be argued that the short-spacing of systems currently prevents operators from moving their systems to a significant degree, the fact is that in the existing licensing environment virtually every system could be moved move than their existing interference contour in one or more

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[30]Compare, Further Notice of Proposed Rule Making, supra at para. 30 versus para. 40.

[31]Id. at p. 580.

[32]Further, as discussed above, if the incumbent licensee's authorization is cancelled, the geographic licensee would be entitled to operate in the vacated area.

directions. The Commission's proposal to prevent moves beyond the current interference contour eliminates such flexibility.

Further, existing licensees would, as a result, have virtually no realistic ability to transfer or assign their licenses to a buyer other than the geographic licensee. As a result, the licensee's authorization is modified by limiting its transferability.

5. **Regulatory Parity Does Not Mean Auctioning Licensed Spectrum**

The concept of "regulatory parity" neither requires the assignment of channels in contiguous blocks nor mandatory retuning. Nextel states its position in an ex parte presentation to the Commission that there is a "... necessity of a new licensing scheme for Specialized Mobile radio that would provide the regulatory parity mandated by the Budget Act, i.e., the need for contiguous blocks of spectrum, a 200-channel (10 MHz) block, and mandatory retuning of incumbents."

The Budget Act does **not** mandate contiguous spectrum or mandatory retuning. With regard to parity, the Act specifies that similar services should be regulated in a similar manner,[33] however, the Legislative History discusses parity with regard to common carrier-type issues, i.e. interconnection issues, state preemption issues, entry issues, etc.[34] "Licensing" parity is not mandated. Further, absolute parity is not required. In fact, the Conference Report specifically contemplates that "... market conditions may

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[33] Id. at p. 576.

[34] See, generally, House Report No. 103-111 at p. 586-588.

justify differences in the regulatory treatment of some providers of commercial mobile services."[35]

6. The Budget Act Precludes Private Auctions

A single licensee must not be permitted to dominate a single service and will effectively exclude small businesses from the agency's licensing procedures. The Legislative History requires the Commission, in deciding whether to auction spectrum, to take into account whether "... a single licensee dominates any particular service, or it dominates a significant group of services."[36] The Legislative History mandates that the Commission's rules promote economic opportunity and competition, and "... ensure that the adoption of the competitive bidding provisions of this section will not have the effect of excluding small businesses from the Commission's licensing procedures".[37] Further, the Legislative History states that for the Commission to realize these goals the Commission must disseminate licenses among a wide variety of applicants.[38]

The Commission's proposal has the impact of limiting participants in an auction to Nextel and its affiliates. In paragraph 14 of the First Report and Order, the Commission states that the new rules are ".. not designed to benefit any particular entity, but to provide opportunities for a variety of licensees of

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[35] Id. at p. 1180.

[36] Id. at p. 581.

[37] Id.

[38] Id.

different sizes to participate in the provision of wide-area service." However, the Commission fails to discuss whether it is indeed possible for a "variety of licensees of different sizes" to participate under the scheme adopted. The Commission must carefully review whether it is at all possible for **any** entity to actually license Upper 200 spectrum and relocate Nextel. The Commission must perform a practical review of its rules. PCIA believes that the Commission will find that the new rules ultimately can only benefit Nextel.[39]

The proposed channel block size (50 contiguous channels), geographic market size (Major Trading Areas) and build-out coverage requirements mean that only Nextel and its affiliates could participate in the auction. Only Nextel currently has spectrum over a large, MTA geographic area that would permit relocation of incumbent licensees, which would be necessary because of coverage requirements for the license. Only Nextel has spectrum across the entire channel block, and only Nextel has the financial resources to bid. Therefore, the adoption of the Commission's proposal would create a private auction and, contrary to the expressed intention of Congress, ensures that small businesses are excluded from the Commission's licensing procedures as small operators.

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[39]PCIA certainly does not object to new rules which would benefit Nextel. However, the new rules should benefit **all** licensees. This is the failing of the Commission's efforts to date.

7. **The Industry Consensus Compromise Provides An Alternative**

PCIA's request for reconsideration is tempered, however, by the Comments filed by many participants in this proceeding who now support a proposal initially presented to the Commission by PCIA in January of 1995. Specifically, there now appears to be agreement in the SMR industry that the Commission should allow a conversion of incumbent licensees from site specific licenses to geographic licenses on a channel-by-channel basis in the Lower 80 SMR and 150 General Category frequencies.[40]

Although each group has a slightly different view of how the conversion should take place, the universal agreement that there should first be a conversion without auction should persuade the Commission to abandon its attempts to auction this spectrum, at least for encumbered spectrum. The Commission has now been presented with ample evidence that auctioning the Lower 80 SMR and 150 General Category frequencies is unworkable and would result in an inability for operators to compete in the wireless marketplace.

PCIA believes that adoption of PCIA's channel conversion plan will also serve to satisfy non-SMR incumbent licensees. Specifically, PCIA's plan enables the Commission to maintain open eligibility on 150 General Category channels and would permit non-SMR incumbent licensees to obtain geographic licenses without significant cost. In sum, PCIA's plan serves everyone's needs in

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[40] See, Comments of Nextel Communications, Inc. ("Nextel") at 12; American Mobile Telecommunications Association, Inc. ("AMTA") at 19; SMR Won at 10; E. F. Johnson at 8; Pittencrief Communications, Inc. at 8.

that: (1) auction winners on the upper 200 SMR channels can offer geographic licenses on lower channels to upper 200 SMR channel incumbent licensees; (2) incumbent licensees on the Lower 80 SMR and 150 General Category frequencies can obtain geographic licenses through voluntary negotiations with co-channel licensees; (3) non-SMR licensees may maintain access to spectrum; and (4) licensees and the Commission will be relieved of a significant licensing burden.

If the Commission adopts the proposed lower band plan, PCIA would be willing to forego its request for reconsideration of the Commission's decision to auction the Upper 200 channels and impose mandatory relocation on Upper channel incumbent licensees. Notwithstanding the legal arguments presented above, PCIA believes that the continued delay in completion of this proceeding only imposes additional burdens on SMR operators. A long reconsideration period, coupled with an application for review period and any court proceedings which may follow, only serves the interests of wireless competitors outside of the 800 MHz band. In light of this burden on the SMR industry, PCIA would reluctantly accede to auctions and mandatory relocation on the upper 200 channels if the Commission permits a voluntary channel clearance program on the lower channels.

Adoption of PCIA's proposal will also enable the Commission to maintain open eligibility for the General Category channels. Without mandatory relocation, there is little reason to limit eligibility for these channels. Ultimately, the Commission's

decision to limit eligibility for SMR applicants only delays the implementation of new rules in this band, as the Commission will be subject to countless reconsideration and appeal filings by users, particularly public safety users, each of which utilizes this band extensively and continue to have a need for use of General Category channels.

B. **Signal Strength At Geographic Borders**

In its Comments, Motorola requested that the Commission establish a maximum 22 dB signal level for the EA license at its geographic border. Motorola stated that although this would lead to some "dead spots" at the border, negotiations between operators could resolve any signal problems. SMR WON proposed that new operations must not place a dBuV/m signal across a wide-area service border. The FCC agreed with SMR WON that 40 dBμV/m is an appropriate measure for the desired signal level at the service area border.[41] The FCC will prohibit EA licensees from exceeding a signal level of 40 dBμV/m at their service area boundaries, unless all bordering EA licensees agree to a higher field strength. Thus, the Commission adopted a standard which is LESS protective than the Motorola proposal.

PCIA believes that the Commission should reconsider this decision. PCIA is concerned that two entities placing a 40 dBuV/m at the same geographic boundary will certainly interference with one another. PCIA prefers Motorola's proposal, which would permit licensee's to negotiate a mutually acceptable higher level of

signal concentration at the geographic border, rather than negotiating a lower level of signal concentration than permitted by the rules. Under Motorola's proposal, unsuccessful negotiations will still **prevent** interference, whereas under the Commission's new rule unsuccessful negotiations will **result** in interference. This will inevitably cause the Commission to become involved in a dispute, further straining scarce resources.

C. **Co-Channel Interference Protection At Mountaintop Sites**

In the First Report and Order, the Commission adopted rules concerning co-channel interference protection. The FCC will require EA licensees to afford interference protection to incumbent SMR systems, as provided in Section 90.621 of the Commission's rules.[42] As a result, an EA licensee must satisfy its co-channel protection obligations with respect to incumbents in one of three ways: (1) by locating its stations at least 113 km (70 miles) from any incumbent's facilities; (2) by complying with the "short-spacing rule" if it seeks to operate stations less than 113 km from an incumbent's facilities; or, (3) by negotiating an even shorter distance with the incumbent licensee.[43]

In adopting co-channel separation rules in the First Report and Order, the Commission did not discuss certain western United States transmitter sites in California and Washington state which receive by rule different co-channel interference protection. PCIA assumes that the Commission did not intend to alter the protection

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[42] First Report and Order at para. 92.

[43] Id.

afforded these systems. However, PCIA requests that the Commission clarify its intent with regard to the California and Washington state sites.

III. CONCLUSION

For the foregoing reasons, PCIA urges the Commission to modify its proposed rules for 800 MHz licensing consistent with the views expressed herein.

Respectfully submitted,

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